

Streamlining the Contract Amendment Process

Background

The current contract amendment is cumbersome, leading to delays of two to four months before a decision can be reached. While CALFED staff and our contracting agency staff are committed to delivering projects on time and on budget, we anticipate the need for a variety of amendments. These will be needed because:

- The need for biological monitoring was not emphasized in the RFP, and some applicants did not include this task in their proposal. In addition, once the biological monitoring plans are reviewed by the CALFED Project Work Team, additional monitoring may be needed. Contract budgets will need to be amended to allow for this additional work.
- We have determined that it would help to facilitate transfers of technology if CALFED held annual review meetings, at which each contractor would make an oral presentation regarding the progress of his project. This task was not discussed in the RFP, and was therefore not budgeted by any of the contractors. Contract budgets may need to be amended by up to \$1,000 each to allow for this task.
- Contractors may need to request a time extension because of elements beyond their control, such as heavy rains, flooding, wet soil, or delays in receipt of environmental permits.
- Some of the construction proposals contained an estimated costs for items which will be bid out. Once the formal bids come back, the budgets may have to be revised.
- Due to the time which has elapsed since the proposals were submitted, the scope of some projects has been refined. If the scope is different than that in the proposal, an amendment is necessary.

Current Process

Our current amendment process is as follows:

1. Level I amendments: the contracting agency may approve requests for (a) cumulative time extensions up to six months, and (b) changes in scope of services which will not alter the final outcome of the project.
2. Level II amendments: for requests of (a) cumulative time extensions over 6 months and less than 12 months or (b) cumulative budget increases up to 30% of the contract amount, but not greater than \$500,000, review and input is necessary from the Ecosystem Roundtable, while the final decision rests with the CALFED Management Team.
3. Level III amendments: for amendment requests of (a) cumulative time extensions of 12 months or more, (b) cumulative budget increases of 30% or more of the contract

amount or over \$500,000, or (c) changes in the scope of services that alters the primary objective of the proposal, review and input is necessary from the Ecosystem Roundtable and CALFED Management Team, while the final decision rests with the CALFED Policy Group.

There are a number of drawbacks to this process. For a Level III-type amendment, the issue must be discussed at three meetings, leading to problems in scheduling the item in sequence (first Ecosystem Roundtable, then Management Team, and then Policy Group). In addition, all three groups already have full meeting agendas and discussion of proposed amendments will take valuable time. We estimate that it will take three to four months for a Level III amendment to be processed, potentially leading to cost overruns for the contractor and a loss of CALFED's credibility.

Because the contracting agency staff must work with the contractor on a day-to-day basis, they may not want to position themselves by recommending approval or denial of an amendment request. When no recommendation is made, or when denial is recommended, the contractor should be able to state his case and be present during discussion of his issue. However, because the Management Team and Policy Group meetings are closed to the public, the contractor can not attend them. At this point, the only forum in which a contractor may present his side of the issue is at the Ecosystem Roundtable. A final problem is that amendment issues can be so detailed that they are extremely time consuming and inappropriate to discuss in front of a large body of people.

Proposed Change

CALFED staff will bring a proposed change to the amendment process to the Ecosystem Roundtable meeting.

In addition, staff recommend making changes to the items which are included in Level I amendments. The proposed changes are as follows:

Level I amendments would be expanded to include the following items: (a) cumulative time extensions up to nine months, (b) changes in scope of services which will not alter the final outcome of the project, (c) a budget increase not to exceed \$750 for the purpose of attending annual review meetings, and (d) a budget increase not to exceed \$15,000 for the purpose of biological monitoring. Contracting agency staff would be delegated the authority to make these changes, upon consultation with CALFED and/or Reclamation staff.

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